

§ 140.19 Failure by licensees to maintain financial protection.

In any case where the Commission finds that the financial protection maintained by a licensee is not adequate to meet the requirements of this part, the Commission may suspend or revoke the license or may issue such order with respect to licensed activities as the Commission determines to be appropriate or necessary in order to carry out the provisions of this part and of section 170 of the Act.

§ 140.20 Indemnity agreements and liens.

(a) The Commission will execute and issue agreements of indemnity pursuant to the regulations in this part or such other regulations as may be issued by the Commission. Such agreements, as to any licensee, shall be effective on:

(1)(i) The effective date of the license (issued pursuant to part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or (ii) the effective date of the license (issued pursuant to part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license for the reactor, whichever is earlier. No such agreement, however, shall be effective prior to September 26, 1957; or

(2) August 1, 1977 or the effective date of the license (issued pursuant to part 70 of this chapter) authorizing the licensee to possess and use plutonium at the site of the plutonium processing and fuel fabrication plant for processing in that plant, whichever date is later.

(b) If the licensee fails to pay assessed deferred premiums, the Commission reserves the right to pay those premiums on behalf of the licensee and to recover the amount of such premiums from the licensee.

(c) The Commission shall require the immediate submission of financial statements by those licensees who indicate, after an assessment of the retrospective premium by the insurance pools, that they will not pay the assessment. Such financial statements shall include, as a minimum, exhibits

indicating internally generated funds from operations and accumulated retained earnings. Subsequent submission of financial statements by such licensees may be requested by the Commission, as required.

(d) If premiums are paid by the Commission as provided in paragraph (b) of this section, payment by the Commission shall create a lien in the amount paid in favor of the United States upon all property and rights to property, whether real or personal, belonging to such licensee. The lien shall arise at the time payment is made by the Commission and shall continue until the liability for the amount (or a judgment against the licensee arising out of such liability) is satisfied or becomes unenforceable. The Commission will issue a certificate of release of any such lien if it finds that the liability for the amount has been fully satisfied or has become legally unenforceable.

(e) If the Commission determines that the licensee is financially able to reimburse the Commission for a deferred premium payment made in its behalf, and the licensee, after notice of such determination by the Commission fails to make such reimbursement within 120 days, the Commission will take appropriate steps to suspend the license for 30 days. The Commission may take such further action as is necessary if reimbursement is not made within the 30-day suspension period including but not limited to termination of the operating license.

(f)(1)(i) The general form of indemnity agreement to be entered into by the Commission with reactor licensees who furnish financial protection in the form of the nuclear energy liability insurance policy set forth in appendix A is contained in § 140.92, appendix B. The general form of indemnity agreement to be entered into by the Commission with reactor licensees who furnish financial protection in the form specified in § 140.14(a)(2) is set forth in § 140.93, appendix C.

(ii) The general form of indemnity agreement to be entered into by the Commission with persons licensed to possess and use plutonium in a plutonium processing and fuel fabrication plant and who furnish financial protection in the form of the nuclear energy